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8 **UNITED STATES DISTRICT COURT**
 9 **CENTRAL DISTRICT OF CALIFORNIA**

10 MURAD, INC., a California
 11 corporation,

12 Plaintiff,

13 v.

14 STRAWBERRY LIMITED.;
 15 STRAWBERRY COSMETICS (USA)
 16 LIMITED; STRAWBERRY COSMETICS
 17 (INTERNATIONAL) LIMITED, and
 18 DOES 1-100,

19 Defendants.

Case No.

**COMPLAINT FOR TRADEMARK
 INFRINGEMENT, FALSE
 DESIGNATION OF ORIGIN, AND
 UNFAIR COMPETITION**

- (1) **TRADEMARK INFRINGEMENT**
 (15 U.S.C. § 1114);
 (2) **FALSE DESIGNATION OF**
ORIGIN (15 U.S.C. § 1125(a);
 (3) **UNFAIR COMPETITION (Cal.**
Bus & Prof. Code § 17200)
 (4) **STATE COMMON LAW**
TRADEMARK INFRINGEMENT

[DEMAND FOR JURY TRIAL]

20 Plaintiff Murad, Inc. ("Murad"), a California corporation, hereby alleges:

21 **NATURE OF ACTION**

22 1. When you own a trademark, you own the exclusive right to control
 23 the *quality* of the goods that are manufactured, offered for sale, and sold under
 24 that mark. That quality control is one of the most valuable and important legal
 25 protections afforded to a trademark owner (and to the public) because it helps
 26 to ensure the consistency, predictability, and in some cases *safety* of consumers'
 27 experiences with the products bearing that trademark. A trademark says: this
 28 is a genuine product *whose quality is being controlled* by the owner of the mark.

2. Murad is a trademark owner. Murad brings this action to enjoin violations of the United States Lanham Act and California state laws, arising out of the defendants' advertising, distribution, and sale of adulterated, defaced, and therefore not genuine, "MURAD"-branded beauty and skin care products.

3. Murad, based in California, produces high-end beauty and skin care products. Murad sells those products directly to the public, as well as through a limited number of authorized retailers, salons, and spas. Murad's products are sold under a variety of trademarks, both federally registered and protected at common law, as well as under Murad's overall "umbrella" trademark "MURAD."

4. In order to maintain quality control over its beauty and skin care products -- for instance, in the event that someday there might be a need to recall particular units and adequately alert distributors and customers about it -- Murad *tracks* products using identification numbers, holographic seals, and other markers which Murad applies to its products and/or to their packaging.

5. The defendants herein have *never* been authorized to purchase Murad's products and resell them. Murad will not supply them with product. Thus, the defendants surreptitiously induce authorized distributors of Murad to sell them units of Murad's products. The problem for the defendants is that Murad can inspect units which the defendants have sold, and then, by using its tracking features, identify the distributors who sold the defendants those units. Murad's ability to track its products thus poses a threat to such "diverters," which is why units of Murad's products sold by the defendants *have had their tracking markers and other indicia removed or defaced*, to prevent such tracking. Under the Lanham Act and state law the sale of these products with the tracking markers removed or defaced violates Murad's rights as it interferes with its ability to maintain quality control over its products. Consumers are harmed because they buy units that have been defaced and adulterated by the removal of their tracking information and are not subject to Murad's quality controls.

PARTIES

6. Murad, Inc. is, and at all times relevant hereto was, a California corporation with its principal place of business in El Segundo, California.

7. Upon information and belief, Strawberry Limited is a corporation organized and existing under the laws of Hong Kong with its principal place of business at No. 4, A Kung Ngam Village Road, Shau Kei Wan, Hong Kong.

8. Upon information and belief, Strawberry Cosmetics (USA) Limited is a corporation organized and existing under the laws of Hong Kong with its principal place of business at No. 4, A Kung Ngam Village Road, Shau Kei Wan, Hong Kong.

9. Upon information and belief, Strawberry Cosmetics (International) Limited is a corporation organized and existing under the laws of Hong Kong with its principal place of business at No. 4, A Kung Ngam Village Road, Shau Kei Wan, Hong Kong.

10. The true names and capacities of the defendants named herein as DOES 1 through 100 are currently unknown to Murad, which therefore sues such defendants by such fictitious names. Murad will amend this Complaint, or file further pleadings, to substitute such true names and capacities for said fictitious names, when the same have been ascertained. On information and belief, DOES 1-100, and each of them, is responsible in some manner for the acts complained of herein and is liable to Murad for same.

11. In this Complaint, the word "Defendants" or "defendants" shall mean and include, collectively, DOES 1-100, Strawberry Limited, Strawberry Cosmetics (USA) Limited, and Strawberry Cosmetics (International) Limited; and "Defendant" or "defendant" in the singular shall mean one of them.

12. Except as otherwise alleged by Murad, on information and belief, at all times relevant hereto each Defendant was the agent, servant, or employee, or alter ego, or co-conspirator, of each other Defendant, and at all times was

1 acting within the course and scope of such relationship.

2 13. On information and belief, Strawberry Limited, Strawberry
3 Cosmetics (USA) Limited, and Strawberry Cosmetics (International) Limited
4 own, operate, or control the website located at the domain name
5 www.strawberrynet.com and advertise, offer to sell, sell, distribute, and ship
6 the products referenced on that website, including “MURAD”-branded products,
7 including, but not limited to, by selling and shipping such products to customers
8 located in the United States, including in California and in this judicial district.
9 A “Who Is” domain name search website at www.networksolutions.com/whois-
10 search/strawberrynet.com indicates that “Strawberry Ltd.” is the registrant.

11 **JURISDICTION AND VENUE**

12 14. This Court has original federal question jurisdiction over the
13 Lanham Act claims pleaded in this action (15 U.S.C. § 1051 *et seq.*; 28 U.S.C. §
14 1331), for registered trademark infringement and false designation of origin
15 (15 U.S.C. § 1121; 28 U.S.C. §§ 1338(a) and (b)).

16 15. This Court has supplemental jurisdiction over the state law claims
17 pleaded in this action (28 U.S.C. §§ 1338(a) and (b); 28 U.S.C. § 1367(a)).

18 16. Venue is proper under 28 U.S.C. §§ 1391(b) in that the claims
19 herein, or a substantial part of the events that give rise to the claims herein,
20 arose in this judicial district. Murad is located in this judicial district, and
21 Defendants sold and shipped products, including defaced and adulterated
22 “MURAD”-branded products, to purchasers located in this judicial district.

23 **MURAD’S PRODUCTS AND TRADEMARKS**

24 17. Murad was founded in 1989 by renowned dermatologist Howard
25 Murad, M.D., FAAD (“Dr. Murad”), who still acts as its chief executive officer.
26 Dr. Murad oversees and directs various Murad enterprises, including the Murad
27 Inclusive Health® Spa, Murad Medical Group, and Murad Research
28 Laboratories. A board-certified dermatologist, pharmacist, and Associate

1 Clinical Professor of Medicine (Dermatology) at UCLA, Dr. Murad is widely
 2 acknowledged as one of the world's foremost authorities on skin health. Dr.
 3 Murad travels the world speaking as a brand ambassador and as an educator.
 4 Dr. Murad's pioneering efforts include the creation of cutting edge formulations
 5 for topical and Internal Skincare®, including discoveries that have converted
 6 ethno-botanical resources into important advances in health care and wellness.

7 18. As part of its efforts to promote healthy skin and hair, Murad is
 8 engaged in the development, manufacture, distribution, sale, and marketing of
 9 many high-end beauty and skin care products including, by way of example and
 10 not limitation, treatments, cleansers, creams, gels, masks, serums, lotions,
 11 toners, moisturizers, resurfacing peels, home facial kits, diet aids, exfoliating
 12 creams, facial scrubs, non-medicated skin astringents, skin moisturizers, night
 13 creams, hand and body moisturizers, bath and shower gels, hair shampoo and
 14 hair conditioner, sun block preparations, anti-wrinkle cream, moisture cream,
 15 and under-eye cover. "MURAD"-branded products are sold both nationally and
 16 internationally via Internet websites, select "brick and mortar" retail stores, and
 17 select spas and salons. Murad also sells its products directly to consumers at
 18 www.murad.com. Murad's products bear the "MURAD" brand and, in many
 19 cases, additional Murad-owned marks. Many of Murad's formulas are patented.

20 19. Murad has common law trademark rights in the mark "MURAD"
 21 which is an inherently distinctive mark which, in addition, also has achieved
 22 secondary meaning as a result of its extensive commercial use by Murad since at
 23 least as early 1989. "MURAD" functions as an identifier of source and origin.

24 20. In addition, Murad owns federal trademark registrations, including:

25 (a) M MURAD (Reg. No. 1830098), dated April 12, 1994, for
 26 "professional skin care products; namely, age spot and pigment lightening gels,
 27 exfoliating creams, moisturizing and acne prone skin formula lotions." A copy
 28 of the electronic record of this registration obtained from the Trademark

1 Electronic Search Systems (TESS) is attached hereto as Exhibit 1.

2 (b) MURAD (Reg. no. 2062211), dated May 13, 1997, for “vitamins,
3 minerals and nutritional and dietary supplementary.” A copy of the electronic
4 record of this registration obtained from the Trademark Electronic Search
5 Systems (TESS) is attached hereto as Exhibit 2.

6 (c) M MURAD (Reg. no. 2254716), dated June 22, 1999, for “professional
7 skin care products, namely, age spot and pigment lightening gels, exfoliating
8 creams, moisturizing and acne prone skin formulas and sun screen.” A copy of
9 the electronic record of this registration obtained from the Trademark
10 Electronic Search Systems (TESS) is attached hereto as Exhibit 3.

11 (d) A stylized “M” (Reg. No. 2481451), dated August 28, 2001, for “skin
12 and hair care products, namely, hair shampoo, hair conditions, skin cleanser,
13 facial scrub, skin astringent, skin moisturizer and night cream, skin moisturizing
14 lotion, bath oil and bubble bath, professional skin care products; namely, age
15 spot and pigment lightening gels, exfoliating creams, moisturizing and acne
16 prone skin formula lotions and sun screen.” A copy of the electronic record of
17 this registration obtained from the Trademark Electronic Search Systems
18 (TESS) is attached hereto as Exhibit 4.

19 (e) “Resurgence” (Reg. No. 2722180), dated June 3, 2003, for “skin care
20 products, namely exfoliating creams, skin cleanser, facial scrub, skin astringent,
21 skin moisturizer and night cream; hand and body moisturizer, bath and shower
22 gel, tanning lotion, bath oil, anti-wrinkle cream, moisture cream and under eye
23 cover; cosmetics, namely, liquid foundations, face powder, rouge-blusher, under
24 eye cover, eye shadow, eye liner, mascara, lipstick, eye pencils and lip pencils,
25 lip gloss.” A copy of the electronic record of this registration obtained from the
26 Trademark Electronic Search Systems (TESS) is attached hereto as Exhibit 5.

27 (g) “Age Reform” (Reg. No. 3307910), dated October 9, 2007, for “skin
28 care products, namely exfoliating creams, skin cleanser, facial scrub, non-

1 medicated skin astringent for cosmetic purposes, skin moisturizer and night
 2 cream; hand and body moisturizer, bath and shower gelee, hair shampoo and
 3 hair conditioner, sun block preparations, bath oil, anti-wrinkle cream, moisture
 4 cream and under eye cover.” A copy of the electronic record of this registration
 5 obtained from the Trademark Electronic Search Systems (TESS) is attached
 6 hereto as Exhibit 6.

7 21. In addition, Murad is the exclusive licensee of another registered
 8 trademark: “Transforming Skincare” (Reg. No. 3636576), dated June 9, 2009,
 9 for “[n]on-medicated skin care preparations, namely, creams, lotions, gels,
 10 toners, cleaners and peels.” A copy of the electronic record of this registration
 11 obtained from the Trademark Electronic Search Systems (TESS) is attached
 12 hereto as Exhibit 7.

13 22. In addition, Murad has applied for federal trademark registrations
 14 which are pending, including:

15 (a) MURAD M (Serial No. 77934311), filed on February 12, 2010, for
 16 “[r]etail store services featuring skin care products, vitamins and nutritional
 17 supplements.” A copy of the electronic record of this registration obtained from
 18 the Trademark Electronic Search Systems (TESS) is attached hereto as Exhibit
 19 8.

20 (b) MURAD M (Serial No. 77934314), filed on February 16, 2010, for
 21 “[n]on-medicated skin care preparations, namely, creams, lotions, gels, toners,
 22 cleaners and peels” and “[d]ietary supplements for human consumption;
 23 [v]itamins.” A copy of the electronic record of this registration obtained from
 24 the Trademark Electronic Search Systems (TESS) is attached hereto as Exhibit
 25 9.

26 (c) “The Science of Cellular Water” (Serial No. 77576475), filed on
 27 September 23, 2008, for “[n]on-medicated skin care preparations; non-
 28 medicated skin care preparations, namely, creams, lotions, gels, exfoliants for

1 skin, toners, cleansers, clarifiers, masks, peels; non-medicated skin care
 2 preparations, namely, vitamin powders comprised of alascorbic acid and tapioca
 3 starch for purposes of skin renewal and anti-aging; anti-wrinkle creams; facial
 4 scrubs; astringents for cosmetic purposes; skin moisturizers; night creams;
 5 under-eye enhancers; under-eye concealers; bath and shower gels; bath salts;
 6 bath oils; hair care preparations; hair conditioners; hair shampoos; sun block
 7 preparations; non-medicated lip care preparations; and kits comprised of one or
 8 more of the aforementioned items.” A copy of the electronic record of this
 9 registration obtained from the Trademark Electronic Search Systems (TESS) is
 10 attached hereto as Exhibit 10.

11 23. Some of Murad’s top products include:

12 (a) a 2.65 oz. “Clarifying Mask” that uses rare earth clays, Kaolin and
 13 Bentonite, to purify and deep-clean acne-prone skin by drawing out and
 14 absorbing impurities.

15 (b) a 1.7 oz. “Perfecting Day Cream” that provides essential hydration
 16 and broad spectrum sun protection to dry skin with an SPF of 30.

17 (c) a 1.7 oz. “Skin Perfecting Lotion” that minimizes pores and refines
 18 skin texture.

19 (d) a 1.7 oz “Oil-Control Mattifier” that protects skin while providing all
 20 day oil control.

21 (e) a 1.7 oz. “Sheer Lustre Day Moisture SPF 15” that uses shea butter
 22 to restore elasticity, smooth fine lines, and restore a healthy glow.

23 (f) a 6 oz “Hydrating Toner” that balances, hydrates, and neutralizes
 24 skin surface impurities.

25 24. Additionally, Murad has a “Professional” line of products sold in
 26 salons and spas. Among its top-selling Professional line products is its 1 oz.
 27 Immuno-Skin Age Inhibitor®, a high potency, peptide-based formula that
 28 activates the skin’s fight against aging, helping improve firmness and elasticity.

1 25. Murad's products are so effective and are so well received by
 2 consumers that they have met with tremendous commercial success in the U.S.
 3 and internationally. Over the past three years, for example, domestic sales of
 4 Murad's products have exceeded \$250 million and international sales of those
 5 products have exceeded \$180 million.

6 26. Murad invests considerable sums to advertising its products under
 7 its trademarks. Over the past two years for example Murad has invested more
 8 than \$25 million in such expenses.

9 27. Murad's products also have been featured prominently in the media,
 10 including on television shows such as NBC's *Today*, on radio shows, in online
 11 media, in journals, and in magazines such as *Cosmopolitan*, *Vogue*, *Harper's*
 12 *Bazaar*, *Vanity Fair*, *People*, *Newsweek*, *In Style*, *Seventeen*, and *Ladies' Home*
 13 *Journal*. The quality of Murad's products makes them favorites with critics and
 14 consumers alike. For example, Murad's "Lighten and Brighten Eye Treatment"
 15 received *Allure* magazine's "Best of Beauty Award" for dark circles in October
 16 2007. In February 2010, *Examiner.com* tagged Murad's Perfecting Day Cream
 17 SPF 30 as the "winning look to obtain perfect and radiant skin." Celebrities
 18 enjoy Murad's products as much as consumers do, such as *Sex and the City*
 19 actress Kim Cattrall who has called Murad's "Sensitive Skin Soothing Serum"
 20 one of her favorites.

21 **MURAD'S SYSTEM OF DISTRIBUTION AND QUALITY CONTROL**

22 28. Murad supplies its products to a certain number of authorized
 23 retailers such as Sephora and drugstore.com who sell high end beauty and skin
 24 care products. Murad also sells to select spas and salons. Distributors and third
 25 parties who wish to sell Murad products enter into written contracts pursuant to
 26 which they are obligated to *only* sell those products in accordance with Murad's
 27 strict resale restrictions, meaning *only* to consumers and *never* to other retailers
 28 or distributors. Any diversion or sale of any such products to non-authorized

1 customers or non-authorized channels is cause for contractual termination.

2 29. Nevertheless, “diverters” such as Defendants exist, and the principal
3 means which they use to divert Murad-branded products is to obtain units of
4 those products from authorized distributors who, unfortunately, in some cases,
5 are willing to or are induced to violate their contractual obligations to Murad by
6 agreeing to sell units of Murad’s products to diverters such as Defendants.

7 30. To protect the integrity of its products, its trademarks, and its
8 goodwill, and to maintain control over the quality of its products as the
9 products move downstream to the end consumer, Murad implements certain
10 quality control or tracking measures, including the equipping of Murad products
11 and/or packaging with one or more tracking features.

12 31. Tracking features serve several important purposes. Ultimately,
13 they aim to protect the consumer, since the use of such features can enable
14 Murad to trace, identify, and recall defective products if such a need were to
15 arise. The ability to track a product downstream also enables a manufacturer
16 such as Murad to ensure that its wholesale customers are following its quality
17 control standards -- something which can be particularly important in the case
18 of skin care products such as these. The use of tracking features also enables
19 Murad to identify counterfeit products that may be in the marketplace. Such
20 products likely do not contain Murad’s genuine formulations, or otherwise do
21 not comply with Murad’s testing and product quality standards, and can pose a
22 health risk if they contain inferior substitute ingredients. The tracking features
23 help prevent tampering, help prevent the unauthorized resale of products, help
24 identify diverters and their sources, and as noted help in the event of a recall.

25 32. One type of tracking feature used by Murad on products is a
26 holographic seal. The seal is placed on boxes containing such products or on
27 the products themselves if they are not in boxes. The seal consists of a circular
28 label containing a holographic Murad logo and a unique serial number. These

1 seals enable one to establish that a particular unit of product is genuine and
 2 originates from Murad; they also enable one to track to whom that product has
 3 been sold, through the stream of commerce. To prevent tampering, and to
 4 display to the consumer and to all concerned that there has been no tampering,
 5 the seal is designed to come apart only on removal by the end consumer. If a
 6 recall were to be necessary, the code numbers would provide Murad with the
 7 data it would need and enable Murad to trace and refer to that unit of product.

8 33. Murad also uses other tracking features, including a batch code
 9 number on products which identifies the manufacturing lot, and including a
 10 special ink that is applied to the packaging of certain items.

11 **DEFENDANTS' WRONGFUL CONDUCT**

12 34. On information and belief, Defendants own, control, or operate one
 13 or more websites, including at www.strawberrynet.com, which offer Murad
 14 products for sale and sell Murad products, including selling and shipping them
 15 to customers located in the United States (including in California and in this
 16 judicial district) without being authorized by Murad to do so. On the website at
 17 www.strawberrynet.com, for example, Defendants offer for sale and sell over
 18 100 products that bear trademarks of Murad's, including the "MURAD" mark,
 19 selling such Murad products as cleansers, creams, gels, masks, serums, lotions,
 20 resurfacing peels, dietary products, treatments, lotions, skin toners, prepping
 21 solutions, firming bronzers, firm and tone dietary supplements, skin and lip
 22 therapies, and acne control products. On information and belief, it is believed
 23 that Defendants "source" and purchase their Murad products from U.S.
 24 customers of Murad and sell those diverted products to consumers in the U.S.

25 35. From Los Angeles County, within the last four years, California,
 26 people have gone to the website at www.strawberrynet.com, have seen Murad
 27 products being offered for sale on that site, and through the site have purchased
 28 those items -- after which Defendants have shipped those people the items they

1 ordered, delivering them to addresses in Los Angeles County, California, with
 2 the items, once they arrived, being found, upon inspection by Murad, *to have*
 3 *had the tracking features defaced or removed.* (The foregoing people include
 4 people located in California who purchased those items for Murad to inspect.)

5 36. For example, from Los Angeles County, within the last four years,
 6 California, such a person ordered a 2.65 oz Clarifying Mask, which is a Murad
 7 product, from the website at www.strawberrynet.com. (The Clarifying Mask
 8 comes in a plastic tube; the exterior packaging for the tube is a box coded with
 9 ink and sealed with a holographic label.) On receipt of the item in Los Angeles
 10 County, California, and upon inspection, it was found that the tracking features
 11 had been tampered with. Specifically, the ink on the box had been defaced and
 12 removed; the lot code had been removed and concealed on the box and the
 13 product tube itself. The return address on the package in which this product
 14 had been shipped was: "Strawberry Fields, G/F, No. 4, A Kung Ngam Village
 15 Road, Shau Kei Wan, Hong Kong."

16 37. As another example, again from Los Angeles County, California,
 17 within the last four years, such a person placed an order for a 1.7 oz Perfecting
 18 Day Cream SPF 30, which is a Murad product, from the website at
 19 www.strawberrynet.com. On receipt of the item in Los Angeles County,
 20 California, and upon inspection, it was found that the tracking features had
 21 been tampered with. Specifically, the holographic seal had been removed. The
 22 return address on the package in which this product had been shipped was:
 23 "Strawberry Cosmetics (USA) Ltd., G/F, No. 4, A Kung Ngam Village Road,
 24 Shau Kei Wan, Hong Kong."

25 38. As another example, again from Los Angeles County, California,
 26 within the last four years, such a person placed an order for another Clarifying
 27 Mask, a Murad product, from www.strawberrynet.com. On receipt of the item
 28 in Los Angeles County, California, and upon inspection, it was found that the

1 tracking features had been tampered with. Specifically, the holographic seal
 2 had been removed. The return address on the package in which the products
 3 had been shipped was: "Strawberry Cosmetics (USA) Ltd., G/F, No. 4, A Kung
 4 Ngam Village Road, Shau Kei Wan, Hong Kong."

5 39. As another example, again from Los Angeles County, California,
 6 within the last four years, such a person placed an order for another Clarifying
 7 Mask and a 1 oz. Immuno-Skin Age Inhibitor®, both Murad products, from
 8 www.strawberrynet.com. On receipt of the items in Los Angeles County,
 9 California, and upon inspection, it was found that the tracking features had
 10 been tampered with. Specifically, the holographic seal had been removed from
 11 the Clarifying Mask box. In addition, of concern, the age inhibitor was nearly
 12 three years old. The return address on the package in which the products had
 13 been shipped was: "Strawberry Cosmetics (USA) Ltd., G/F, No. 4, A Kung
 14 Ngam Village Road, Shau Kei Wan, Hong Kong."

15 40. As another example, again from Los Angeles County, California,
 16 within the last four years, such a person placed an order for a 1.7 oz Skin
 17 Perfecting Lotion, a Murad product, from www.strawberrynet.com. On receipt
 18 of the item in Los Angeles County, California, and upon inspection, it was found
 19 that the tracking features had been tampered with. Specifically, the
 20 holographic seal had been removed. The return address on the package in
 21 which the products had been shipped was: "Strawberry Cosmetics (USA) Ltd.,
 22 G/F, No. 4, A Kung Ngam Village Road, Shau Kei Wan, Hong Kong."

23 41. As another example, again from Los Angeles County, California,
 24 within the last four years, such a person placed an order for an Oil Control
 25 Mattifier SPF 15, a 1.7 oz Sheer Lustre Day Moisture, and a 6 oz Hydrating
 26 Toner, all Murad products, from www.strawberrynet.com. On receipt of the
 27 items in Los Angeles County, California, and upon inspection, it was found that
 28 the tracking features had been tampered with. Specifically, the holographic

1 seals had been removed. The return address on the package in which the
 2 products had been shipped was: "Strawberry Cosmetics (USA) Ltd., G/F, No. 4,
 3 A Kung Ngam Village Road, Shau Kei Wan, Hong Kong."

4 42. The foregoing defaced products each bore one or more of the Murad
 5 trademarks referenced herein above in this Complaint -- each such mark being
 6 borne by at least one of these defaced products that was sold and shipped into
 7 California by Defendants. Defendants have misused Murad's marks, including,
 8 but not limited to, each of the marks cited herein above in this Complaint, and
 9 have committed infringement and unfair competition. Defendants have created
 10 a likelihood of confusion as to source, origin, endorsement, or affiliation.
 11 Defendants have used the Murad trademarks on their websites and on their
 12 products and their packaging while offering products that are not authorized by
 13 Murad for sale in this manner and that, as a result of this conduct, are not
 14 legally genuine. Consumers are being deceived and are making purchases from
 15 Defendants thinking they are purchasing genuine products when they are not.

16 **COUNT I**

17 (Registered Trademark Infringement)

18 (15 U.S.C. § 1114)

19 (Against all Defendants)

20 43. Plaintiff hereby incorporates by reference and realleges Paragraphs
 21 1-42, above, as if fully set forth herein.

22 44. Murad owns, or controls all rights to the federally registered
 23 trademarks cited herein above (collectively, the "Registered Trademarks").

24 45. Defendants' acts as alleged herein violate 15 U.S.C. §§ 1114, *et seq.*
 25 and constitute trademark infringement of the Registered Trademarks, and each
 26 of them. "Murad" products offered for sale and sold by Defendants have been
 27 defaced and adulterated in the manners alleged herein above, such that they
 28 are not genuine, and such that Murad's legal rights under the Lanham Act have

1 been violated. Defendants' acts as alleged herein have been in commerce or in
 2 connection with the sale, offering for sale, distribution, or advertising of goods.
 3 Defendants' acts as alleged herein have created a likelihood of confusion as to
 4 source, origin, sponsorship, endorsement or affiliation. On information and
 5 belief, those acts also have caused actual confusion, mistake, or deception.

6 46. Defendants have directly violated, have conspired to violate, and/or
 7 have contributorily violated 15 U.S.C. § 1114. On information and belief,
 8 Defendants have done this intentionally, for the express purpose of trading on
 9 the consumer recognition and goodwill which has been developed in connection
 10 therewith. On information and belief, it was Defendants' objective to create
 11 confusion as to source, origin, sponsorship, endorsement or affiliation.

12 47. As a direct and proximate consequence of Defendants' acts as
 13 alleged herein, Defendants, and each of them, have caused, are causing, and,
 14 unless such acts and practices are enjoined, will continue to cause irreparable
 15 harm to Murad for which there is no adequate remedy at law, and for which
 16 Murad is entitled to preliminary and permanent injunctive relief restraining
 17 Defendants, and each of them, and all of their agents, officers, employees,
 18 affiliates, licensees, assigns, representatives, and distributors, and all persons
 19 acting in concert with any of them, from engaging in any further such acts.

20 48. As a direct and proximate consequence of Defendants' acts alleged
 21 herein, Murad has been, is being, and, unless such acts and practices are
 22 enjoined, will continue to be injured in its business and in its property rights,
 23 and has suffered, is suffering, and will continue to suffer significant monetary
 24 damages and damages, in an amount according to proof at trial. Murad is
 25 entitled to recover actual damages, treble damages, and disgorgement of all
 26 profits and other wrongful gains of each Defendant.

27 49. Murad also is entitled to an accounting and to recover prejudgment
 28 interest, attorneys' fees, costs, and any and all other relief the Court deems

1 appropriate.

2 **COUNT II**

3 (Federal False Designation of Origin)

4 (15 U.S.C. § 1125(a))

5 (Against all Defendants)

6 50. Murad hereby incorporates by reference and realleges Paragraphs 1-
7 49, above, as if fully set forth herein.

8 51. Defendants' acts as alleged herein violate 15 U.S.C. §§ 1125(a), *et*
9 *seq.* and constitute false designation of origin, infringement of Murad's common
10 law or unregistered trademarks, misrepresentation, and unfair competition.
11 "Murad" products offered for sale and sold by Defendants have been defaced
12 and adulterated in the manners alleged herein above, such that they are not
13 genuine and such that Murad's rights under the Lanham Act have been violated.
14 Defendants' acts as alleged herein have been in commerce or in connection with
15 the sale, offering for sale, distribution, or advertising of goods. Defendants' acts
16 as alleged herein have created a likelihood of confusion as to source, origin,
17 sponsorship, endorsement or affiliation. Defendants' acts as alleged herein also
18 have misrepresented the nature, characteristics, or qualities of the Murad
19 products offered for sale by Defendants. On information and belief, Defendants'
20 acts as alleged herein have caused actual confusion, mistake, or deception.

21 52. On information and belief, Defendants' acts as alleged herein,
22 including, but not limited to, their acts of false designation of origin,
23 misrepresentation, and unfair competition, were committed intentionally. On
24 information and belief, it was Defendants' objective to create confusion as to
25 source, origin, sponsorship, endorsement or affiliation, and to misrepresent the
26 nature, characteristics, or qualities of the Murad products they offered for sale.

27 53. Defendants have directly violated, have conspired to violate, and/or
28 have contributorily violated 15 U.S.C. § 1125(a).

54. As a direct and proximate consequence of Defendants' acts as alleged herein, Defendants, and each of them, have caused, are causing, and, unless such acts and practices are enjoined, will continue to cause irreparable harm to Murad for which there is no adequate remedy at law, and for which Murad is entitled to preliminary and permanent injunctive relief restraining Defendants, and each of them, and all of their agents, officers, employees, affiliates, licensees, assigns, representatives, and distributors, and all persons acting in concert with any of them, from engaging in any further such acts.

55. As a direct and proximate consequence of Defendants' acts alleged herein, Murad has been, is being, and, unless such acts and practices are enjoined, will continue to be injured in its business and in its property rights, and has suffered, is suffering, and will continue to suffer significant monetary damages and damages, in an amount according to proof at trial. Murad is entitled to recover actual damages, treble damages, and disgorgement of all profits and other wrongful gains of each Defendant.

56. Murad also is entitled to an accounting and to recover prejudgment interest, attorneys' fees, costs, and any and all other relief the Court deems appropriate.

COUNT III

Unfair, Unlawful, or Fraudulent Trade Practices

(Cal. Bus. & Prof. Code §§ 17200, *et seq.*)

(Against All Defendants)

57. Murad incorporates by reference and realleges paragraphs 1 through 56 above, as if fully set forth herein.

58. By Defendants' acts as alleged herein, Defendants have engaged in unfair, unlawful, or fraudulent business acts or practices in violation of California Business & Professions Code Section 17200 *et seq.* By way of example and not limitation, Defendants' sourcing, buying, receiving, possessing,

1 concealing, offering for sale, selling, shipping, distributing, and/or delivering of
 2 one or more Murad products on which Murad's identification marks and/or
 3 anti-diversion tracking markings had been removed, defaced, covered, altered,
 4 and/or destroyed, violate California Penal Code Section 537e and, as a result,
 5 by virtue of being unlawful, also violate California Business & Professions Code
 6 Section 17200 *et seq.*

7 59. Murad has standing to pursue this claim under Section 17200 *et seq.*
 8 as it has been affected by, and suffered damages as a result of, Defendants' acts.

9 60. Defendants have earned wrongful profits, or have derived wrongful
 10 gains and benefits, as a result of their acts in violation of Section 17200 *et seq.*

11 61. As a direct and proximate consequence of Defendants' acts as
 12 alleged herein, Defendants, and each of them, have caused, are causing, and,
 13 unless such acts and practices are enjoined, will continue to cause irreparable
 14 harm to Murad for which there is no adequate remedy at law, and for which
 15 Murad is entitled to preliminary and permanent injunctive relief restraining
 16 Defendants, and each of them, and all of their agents, officers, employees,
 17 affiliates, licensees, assigns, representatives, and distributors, and all persons
 18 acting in concert with any of them, from engaging in any further such acts.

19 **COUNT IV**

20 California Common Law Trademark Infringement/

21 Unfair Competition

22 (Against All Defendants)

23 62. Murad hereby incorporates by reference and realleges Paragraphs 1-
 24 61, above, as if fully set forth herein.

25 63. Defendants' acts as alleged herein constitute infringement of
 26 Murad's common law or unregistered trademarks, misrepresentation, and unfair
 27 competition under California common law. "Murad" products offered for sale
 28 and sold by Defendants have been defaced and adulterated in the manners

1 alleged herein above, such that they are not genuine and such that Murad's
 2 rights under California common law have been violated. Defendants' acts as
 3 alleged herein have been in commerce or in connection with the sale, offering
 4 for sale, distribution, or advertising of goods in such a way that affects
 5 consumers in California. Defendants' acts as alleged herein have created a
 6 likelihood of confusion as to source, origin, sponsorship, endorsement or
 7 affiliation. Defendants' acts as alleged herein also have misrepresented the
 8 nature, characteristics, or qualities of the Murad products offered for sale by
 9 Defendants. On information and belief, Defendants' acts as alleged herein have
 10 caused actual confusion, mistake, or deception.

11 64. On information and belief, Defendants' acts as alleged herein,
 12 including, but not limited to, their acts of common law or unregistered
 13 trademark infringement, misrepresentation, and unfair competition, were
 14 committed intentionally. On information and belief, it was Defendants'
 15 objective to create confusion as to source, origin, sponsorship, endorsement or
 16 affiliation, and to misrepresent the nature, characteristics, or qualities of the
 17 Murad products they offered for sale.

18 65. Defendants have directly violated, have conspired to violate, and/or
 19 have contributorily violated California common law.

20 66. As a direct and proximate consequence of Defendants' acts as
 21 alleged herein, Defendants, and each of them, have caused, are causing, and,
 22 unless such acts and practices are enjoined, will continue to cause irreparable
 23 harm to Murad for which there is no adequate remedy at law, and for which
 24 Murad is entitled to preliminary and permanent injunctive relief restraining
 25 Defendants, and each of them, and all of their agents, officers, employees,
 26 affiliates, licensees, assigns, representatives, and distributors, and all persons
 27 acting in concert with any of them, from engaging in any further such acts.

28 67. As a direct and proximate consequence of Defendants' acts alleged

1 herein, Murad has been, is being, and, unless such acts and practices are
 2 enjoined, will continue to be injured in its business and in its property rights,
 3 and has suffered, is suffering, and will continue to suffer significant monetary
 4 damages and damages, in an amount according to proof at trial. Murad is
 5 entitled to recover actual damages, treble damages, and disgorgement of all
 6 profits and other wrongful gains of each Defendant.

7 68. Murad also is entitled to an accounting and to recover prejudgment
 8 interest, attorneys' fees, costs, and any and all other relief the Court deems
 9 appropriate.

10 69. On information and belief, Defendants have engaged in the
 11 foregoing conduct willfully and wantonly with malice, oppression, or fraud and
 12 in conscious disregard of Murad's rights. As a result, Murad is entitled to an
 13 award of punitive or exemplary damages to punish Defendants and to deter
 14 others from such misconduct in the future.

15 WHEREFORE, Murad prays for judgment in its favor and against
 16 Defendants, and each of them, as follows:

- 17 1. For preliminary and permanent injunctive relief;
- 18 2. For compensatory damages, according to proof;
- 19 3. For disgorgement of profits and wrongful gains, according to proof;
- 20 4. For treble damages;
- 21 5. For punitive or exemplary damages;
- 22 6. For statutory attorneys' fees;
- 23 7. For an accounting;
- 24 8. For prejudgment interest;
- 25 9. For attorneys' fees and costs; and

26 / / /

1 10. For any and all other relief the Court deems appropriate.
2

3 DATED: May 19, 2010

RUTTER HOBBS & DAVIDOFF
INCORPORATED

4
5 By 

6 GREGORY J. SATER
7 ATTORNEYS FOR PLAINTIFF
8 MURAD, INC.
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JURY DEMAND

Plaintiff Murad, Inc. hereby respectfully requests a trial by jury on any and all issues that are so triable.

DATED: May 19, 2010

RUTTER HOBBS & DAVIDOFF
INCORPORATED

By



GREGORY J. SATER
ATTORNEYS FOR PLAINTIFF
MURAD, INC.

EXHIBIT 1



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Word Mark	M MURAD
Goods and Services	IC 003. US 051 052. G & S: professional skin care products; namely, age spot and pigment lightening gels, exfoliating creams, moisturizing and acne prone skin formula lotions. FIRST USE: 19911000. FIRST USE IN COMMERCE: 19911000
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	74398226
Filing Date	June 7, 1993
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	January 18, 1994
Registration Number	1830098
Registration Date	April 12, 1994
Owner	(REGISTRANT) MURAD SKIN RESEARCH LABORATORIES, INC. CORPORATION CALIFORNIA 2121 ROSECRANS AVENUE FIFTH FLOOR EL SEGUNDO CALIFORNIA 90245 (LAST LISTED OWNER) MURAD, INC. CORPORATION CALIFORNIA 2121 ROSECRANS AVENUE, FIFTH FLOOR EL SEGUNDO CALIFORNIA 90245
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of	

Record Michael A. Painter
Prior Registrations 1690941
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20040214.
Renewal 1ST RENEWAL 20040214
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Typed Drawing

Word Mark	MURAD
Goods and Services	IC 005. US 006 018 044 046 051 052. G & S: vitamins, minerals and nutritional and dietary supplementary. FIRST USE: 19960200. FIRST USE IN COMMERCE: 19960200
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	75000481
Filing Date	October 2, 1995
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	June 4, 1996
Registration Number	2062211
Registration Date	May 13, 1997
Owner	(REGISTRANT) Murad Skin Research Laboratories, Inc. CORPORATION CALIFORNIA 2121 Rosecrans Avenue, 5th floor El Segundo CALIFORNIA 90245 (LAST LISTED OWNER) MURAD, INC. CORPORATION CALIFORNIA 2121 ROSECRANS AVENUE, FIFTH FLOOR EL SEGUNDO CALIFORNIA 90245
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	MICHAEL A PAINTER
Type of Mark	TRADEMARK
Register	PRINCIPAL
Affidavit Text	SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20070226.
Renewal	1ST RENEWAL 20070226
Live/Dead Indicator	LIVE

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Word Mark	M MURAD
Goods and Services	IC 003. US 001 004 006 050 051 052. G & S: professional skin care products, namely, age spot and pigment lightening gels, exfoliating creams, moisturizing and acne prone skin formulas and sun screen. FIRST USE: 19960204. FIRST USE IN COMMERCE: 19960204
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	75254068
Filing Date	March 10, 1997
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	March 30, 1999
Registration Number	2254716
Registration Date	June 22, 1999
Owner	(REGISTRANT) MURAD, HOWARD INDIVIDUAL UNITED STATES 2121 ROSECRANS AVENUE FIFTH FLOOR EL SEGUNDO CALIFORNIA 90245 (LAST LISTED OWNER) MURAD, INC. CORPORATION CALIFORNIA 2121 ROSECRANS AVENUE, FIFTH FLOOR EL SEGUNDO CALIFORNIA 90245
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of	

Record MICHAEL A PAINTER
Prior Registrations 1830098
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20090308.
Renewal 1ST RENEWAL 20090308
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Word Mark	M
Goods and Services	IC 003. US 001 004 006 050 051 052. G & S: skin and hair care products, namely, hair shampoo, hair conditioner, skin cleanser, facial scrub, skin astringent, skin moisturizer and night cream, skin moisturizing lotion, bath oil and bubble bath, professional skin care products; namely, age spot and pigment lightening gels, exfoliating creams, moisturizing and acne prone skin formula lotions and sun screen. FIRST USE: 19911000. FIRST USE IN COMMERCE: 19911000 IC 005. US 006 018 044 046 051 052. G & S: vitamins, mineral supplements nutritional and dietary food supplements. FIRST USE: 19960200. FIRST USE IN COMMERCE: 19960200
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	75773553
Filing Date	August 12, 1999
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	June 5, 2001
Registration Number	2481451
Registration Date	August 28, 2001
Owner	(REGISTRANT) MURAD, HOWARD INDIVIDUAL UNITED STATES 2121 Rosecrans Avenue El Segundo CALIFORNIA 90245

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(LAST LISTED OWNER) MURAD, INC. CORPORATION CALIFORNIA 2121 ROSECRANS AVENUE,
FIFTH FLOOR EL SEGUNDO CALIFORNIA 90245

Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record MICHAEL A PAINTER
Prior Registrations 1830098;2254716
Description of Mark The mark consists of the stylized letter "M".
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR).
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Typed Drawing

Word Mark	RESURGENCE
Goods and Services	IC 003. US 001 004 006 050 051 052. G & S: skin care products, namely exfoliating creams, skin cleanser, facial scrub, skin astringent, skin moisturizer and night cream; hand and body moisturizer, bath and shower gelee, tanning lotion, bath oil, anti-wrinkle cream, moisture cream and under eye cover; cosmetics, namely, liquid foundation, face powder, rouge-blusher, under eye cover, eye shadow, eye liner, mascara, lipstick, eye pencils and lip pencils, lip gloss. FIRST USE: 20021111. FIRST USE IN COMMERCE: 20021111
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	76237197
Filing Date	April 6, 2001
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	October 2, 2001
Registration Number	2722180
Registration Date	June 3, 2003
Owner	(REGISTRANT) MURAD, HOWARD INDIVIDUAL UNITED STATES 2121 Rosecrans Avenue El Segundo CALIFORNIA 90245 (LAST LISTED OWNER) MURAD, INC. CORPORATION CALIFORNIA 2121 ROSECRANS AVENUE, FIFTH FLOOR EL SEGUNDO CALIFORNIA 90245
Assignment Recorded	ASSIGNMENT RECORDED
Attorney of Record	MICHAEL A. PAINTER
Prior Registrations	2101666
Type of Mark	TRADEMARK
Register	PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR).

**Live/Dead
Indicator** LIVE

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AGE REFORM

Word Mark	AGE REFORM
Goods and Services	IC 003. US 001 004 006 050 051 052. G & S: skin care products, namely exfoliating creams, skin cleanser, facial scrub, non-medicated skin astringent for cosmetic purposes, skin moisturizer and night cream; hand and body moisturizer, bath and shower gelee, hair shampoo and hair conditioner, sun block preparations, bath oil, anti-wrinkle cream, moisture cream and under eye cover. FIRST USE: 20061231. FIRST USE IN COMMERCE: 20061231
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	76664007
Filing Date	August 2, 2006
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	March 13, 2007
Registration Number	3307910
Registration Date	October 9, 2007
Owner	(REGISTRANT) MURAD, HOWARD INDIVIDUAL UNITED STATES 2121 Rosecrans Avenue, Fifth Floor El Segundo CALIFORNIA 90245
	(LAST LISTED OWNER) MURAD, INC. CORPORATION CALIFORNIA 2121 ROSECRANS AVENUE, FIFTH FLOOR EL SEGUNDO CALIFORNIA 90245

Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record MICHAEL A. PAINTER
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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TRANSFORMING SKINCARE

Word Mark	TRANSFORMING SKINCARE
Goods and Services	IC 003. US 001 004 006 050 051 052. G & S: Non-medicated skin care preparations, namely, creams, lotions, gels, toners, cleaners and peels. FIRST USE: 20081000. FIRST USE IN COMMERCE: 20081000
	IC 005. US 006 018 044 046 051 052. G & S: Vitamin and mineral supplements. FIRST USE: 20081000. FIRST USE IN COMMERCE: 20081000
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77506180
Filing Date	June 24, 2008
Current Filing Basis	1A
Original Filing Basis	1B
Published for Opposition	November 18, 2008
Registration Number	3636576
Registration Date	June 9, 2009
Owner	(REGISTRANT) MURAD, HOWARD INDIVIDUAL UNITED STATES 2121 Rosecrans Avenue, Fifth Floor El Segundo CALIFORNIA 90245
Attorney of Record	Michael A. Painter, Esq.
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SKINCARE" APART FROM THE MARK AS SHOWN
Type of Mark	TRADEMARK
Register	PRINCIPAL

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MURAD

Word Mark	MURAD M
Goods and Services	IC 035. US 100 101 102. G & S: Retail store services featuring skin care products, vitamins and nutritional supplements. FIRST USE: 19951231. FIRST USE IN COMMERCE: 19951231
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	77934311
Filing Date	February 12, 2010
Current Filing Basis	1A
Original Filing Basis	1A
Owner	(APPLICANT) MURAD, INC. CORPORATION CALIFORNIA 2121 Rosecrans Avenue, Fifth Floor El Segundo CALIFORNIA 90245
Attorney of Record	Michael A. Painter, Esq.
Prior Registrations	1830098;2062211;2254716
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of the word "MURAD" and stylized "M" Design.
Type of Mark	SERVICE MARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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EXHIBIT 9



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Murad ~

Word Mark	MURAD M
Goods and Services	IC 003. US 001 004 006 050 051 052. G & S: Non-medicated skin care preparations, namely, creams, lotions, gels, toners, cleaners and peels. FIRST USE: 20010800. FIRST USE IN COMMERCE: 20010800
	IC 005. US 006 018 044 046 051 052. G & S: Dietary supplements for human consumption; Vitamins. FIRST USE: 20010800. FIRST USE IN COMMERCE: 20010800
Mark Drawing Code	(5) WORDS, LETTERS, AND/OR NUMBERS IN STYLIZED FORM
Serial Number	77936314
Filing Date	February 16, 2010
Current Filing Basis	1A
Original Filing Basis	1A
Owner	(APPLICANT) MURAD, INC. CORPORATION CALIFORNIA 2121 Rosecrans Avenue, Fifth Floor El Segundo CALIFORNIA 90245
Attorney of Record	Michael A. Painter, Esq.
Prior Registrations	1830098;2062211
Description of Mark	Color is not claimed as a feature of the mark. The mark consists of "MURAD" and design of "M".
Type of Mark	TRADEMARK
Register	PRINCIPAL
Live/Dead Indicator	LIVE

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EXHIBIT 10



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THE SCIENCE OF CELLULAR WATER

Word Mark	THE SCIENCE OF CELLULAR WATER
Goods and Services	IC 003. US 001 004 006 050 051 052. G & S: Non-medicated skin care preparations; non-medicated skin care preparations, namely, creams, lotions, gels, exfoliants for skin, toners, cleansers, clarifiers, masks, peels; non-medicated skin care preparations, namely, vitamin powders comprised of alascorbic acid and tapioca starch for purposes of skin renewal and anti-aging; anti-wrinkle creams; facial scrubs; astringents for cosmetic purposes; skin moisturizers; night creams; under-eye enhancers; under-eye concealers; bath and shower gels; bath salts; bath oils; hair care preparations; hair conditioners; hair shampoos; sun block preparations; non-medicated lip care preparations; and kits comprised of one or more of the aforementioned items
	IC 005. US 006 018 044 046 051 052. G & S: Dietary supplements; vitamin and mineral supplements; vitamins; and kits comprised of one or more of the aforementioned items
Standard Characters Claimed	
Mark Drawing Code	(4) STANDARD CHARACTER MARK
Serial Number	77576475
Filing Date	September 23, 2008
Current Filing Basis	1B
Original Filing Basis	1B
Published for Opposition	August 18, 2009
Owner	(APPLICANT) Murad Skin Research Laboratories, Inc. CORPORATION CALIFORNIA 2121 Rosecrans Avenue, Fifth Floor El Segundo CALIFORNIA 90245
Attorney of Record	Michael A. Painter, Esq.

Prior Registrations 3366333
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY

This case has been assigned to District Judge R. Gary Klausner and the assigned discovery Magistrate Judge is Charles Eick.

The case number on all documents filed with the Court should read as follows:

CV10- 3802 RGK (Ex)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

[X] Western Division
312 N. Spring St., Rm. G-8
Los Angeles, CA 90012

[] Southern Division
411 West Fourth St., Rm. 1-053
Santa Ana, CA 92701-4516

[] Eastern Division
3470 Twelfth St., Rm. 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

AO 440 (Rev. 12/09) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
CENTRAL District of CALIFORNIA

Murad, Inc., a California corporation

Plaintiff

v.

Strawberry Limited; Strawberry Cosmetics (USA) Limited;
Strawberry Cosmetics (International) Limited, and Does 1-100

Defendant

) **CV10 3802 RGK (Ex)**
)
)
) Civil Action No.
)
)
)

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Strawberry Limited - No. 4, A Kung Ngam Village Road, Shau Kei Wan, Hong Kong

Strawberry Cosmetics (USA) Limited - No. 4, A Kung Ngam Village Road, Shau Kei Wan, Hong Kong

Strawberry Cosmetics (International) Limited - No. 4, A Kung Ngam Village Road, Shau Kei Wan, Hong Kong

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Gregory J. Sater
Rutter Hobbs & Davidoff Incorporated
1901 Avenue of the Stars, 17th Floor
Los Angeles, CA 90067

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: MAY 20 2010

CHRISTOPHER POWERS

Signature of Clerk or Deputy Clerk

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I (a) PLAINTIFFS (Check box if you are representing yourself ☐)

MURAD, INC., a California corporation

DEFENDANTS

STRAWBERRY LIMITED.; STRAWBERRY COSMETICS (USA) LIMITED; STRAWBERRY COSMETICS (INTERNATIONAL) LIMITED, and DOES 1-100

(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Gregory J. Sater
 RUTTER HOBBS & DAVIDOFF INCORPORATED
 1901 Avenue of the Stars
 17th Floor
 Los Angeles, CA 90067
 Telephone: 310.286.1700

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only
 (Place an X in one box for plaintiff and one for defendant.)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: ☐ Yes ☒ No

☐ **MONEY DEMANDED IN COMPLAINT: \$** _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

15 USC § 1051 et seq. Action for trademark infringement, false designation of origin and unfair competition.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS	TORTS	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) (405(g)) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

CV10 3802

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply)

- ☐ A. Arise from the same or closely related transactions, happenings, or events; or
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.

☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.

☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	HONG KONG

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.

Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
LOS ANGELES	

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): _____

GREGORY J. SATER

Date May 19, 2010

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))